

### REMARKS

Applicant respectfully requests further examination and reconsideration in view of the above amendments and the arguments set forth fully below. In the Final Office Action mailed February 15, 2007, claims 1-45 have been rejected. In response, the Applicant has submitted the following remarks and amended claims 1, 9, 21, 29, 35, 37, 39 and 43. Accordingly, claims 1-45 are still pending. Favorable reconsideration is respectfully requested in view of the amended claim and the remarks below.

#### Rejections under 35 U.S.C. §112

Claim 21 has been rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Specifically, claim 21 includes the limitation “the portable electronic device,” which not only has insufficient antecedent basis, but also renders the claim unclear in light of the “first portable electronic device” that is also recited in the same claim. Furthermore, the identifier (Previously Presented) was incorrect. By the above amendment, the Applicant has amended claim 21 to remedy all three of these items. Therefore, the Applicant respectfully submits that claim 21 is now definite as it points out and distinctly claims the subject matter which Applicant regards as the invention, and therefore satisfies 35 U.S.C. §112, second paragraph.

#### Rejections Under 35 U.S.C. §102

Claims 1-3, 6-14, 17, 21-27, 29-32, 34-37, 39 and 41-45 have been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,057,758 to Dempsey et al. (hereinafter Dempsey). The Applicant respectfully disagrees with this rejection.

Within the Office Action, the Examiner includes new rejections to the independent claims in light of the Dempsey reference. Specifically, the Examiner indicates that a monitoring system transmits signals to at least two portable electronic devices as the first unit (100a) and the second unit (100b). The Office Action continues to cite the portable central station (108) which also according to the Office Action is to be carried by a clinician or

caregiver to receive multi-physiological notification messages from a multitude of patients (106). The Office Action also indicates that 5 separate buffers taught in Dempsey receive different types of notification messages from the multitude of patients having radio frequency identification signals, each message having a unique identifier that is not the same.

In short, according to the Office Action, the Dempsey reference includes a multitude of portable devices capable of receiving unique identifier messages over a common radio frequency protocol. In contrast, the system and method of the present invention includes a single portable device having multiple transceivers, configured to receive multiple messages from multiple patients in two separate and different protocols.

It should be further noted that the system in Dempsey, if actually anticipating the present invention, would include one of the electronic devices (100a for example) having multiple transceivers configured to receive multiple messages from a multitude of patients over different and separate protocols, not the common radio frequency protocol that transmits different identifiers for each of the patients in the Dempsey reference. Furthermore, the Applicant has amended the independent claims of the present invention to further illustrate how the processor, the first and second transceivers are all housed in a single housing of the portable electronic device. Clearly, Dempsey does not teach such an apparatus, nor functionality.

Dempsey does not teach **a single portable electronic device having two wireless transceivers** coupled to a processing circuit, wherein both wireless transceivers are configured to receive data associated with notification messages in two separate and different protocols, and where the portable electronic device is configured to receive the notification message in the first and second wireless data transfer method. In other words, the single portable electronic device and system of the present invention is configured to receive notification messages from a number of different transfer methods or protocols, e.g., by cellular data transfer, by wireless local area network, an IEEE 802.11 protocol or any other protocol known in the art. Furthermore, as stated previously, the Examiner states that the

Dempsey reference teaches a portable device that receives different types of notification messages from a multitude of patients having radio frequency identification signals, and each of these messages as a unique identifier and is not the same. The Applicant respectfully suggests that the Examiner is confusing unique identifiers with a multitude of protocols. In other words, while the Dempsey reference teaches receiving unique identifiers for a multitude of patients over a common radio frequency protocol, the system and method of the present invention teaches receiving a multitude of messages from a multitude of patients over unique protocols, not only unique identifiers over a common radio frequency protocol. The Applicant respectfully submits that no portion of Dempsey teaches such functionality as is described and claimed in the present invention.

Claim 1 directed to a portable electronic device for use in a medical monitoring system, wherein the medical monitoring system generates a notification message indicating that a patient being monitored may have a condition that requires attention and wirelessly transfers the notification message to the portable electronic device, comprising a processing circuit configured to receive the data associated with the notification messages, a first wireless transceiver coupled to the processing circuit and configured to receive data associated with the notification messages and transfer at least some of the data to the processing circuit, the first wireless transceiver configured to operate using a first wireless data transfer method, a second wireless transceiver coupled to the processing circuit and configured to receive data associated with the notification message and transfer at least some of the data to the processing circuit the second wireless transceiver configured to operate using a second wireless data transfer method different from that of the first wireless transfer method, and a housing configured to house the processing circuit and the first and second wireless transceivers. As discussed above, Dempsey does not teach a **single** portable electronic device having two wireless transceivers configured to operate using two separate and distinct wireless protocols. For at least these reason, the independent claim 1 is allowable over the teachings of Dempsey.

Claims 2-3 and 6-8 are dependent upon the independent claim 1. As discussed above, the independent claim 1 is allowable over the teachings of Dempsey. Accordingly, claims 2-3 and 6-8 are also allowable as being dependent upon an allowable base claim.

The independent claims 9, 21, 29, 35, 37, 39 and 43 have been amended to include similar limitations to claim 1 that the system or method as described in the present invention include utilizing two separate and distinct wireless protocols if a patient has a condition that may require attention. For the same reasons as discussed with regards to the independent claim 1, the independent claims 9, 21, 29, 35, 37, 39 and 43 are all also allowable over the teachings of Dempsey.

Claims 10-14, 17, 22-27, 30-32, 34, 36, 41-42 and 44-45 are all dependent upon the independent claims 9, 21, 29, 35, 39 and 43. As discussed above, the independent claims 9, 21, 29, 35, 39, and 43 are allowable over the teachings of Dempsey. Accordingly, claims 10-14, 22-27, 30-32, 34, 36, 41-42 and 44-45 are also allowable as being dependent upon an allowable base claim.

*Rejections Under 35 U.S.C. §103*

Claims 20, 28 and 40 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Dempsey. Claims 20, 28 and 40 are dependent upon the independent claims 9, 21 and 39. As discussed above, the independent claims 9, 21 and 39 are allowable over the teachings of Dempsey. Accordingly, claims 20, 28 and 40 are also allowable as being dependent upon an allowable base claim.

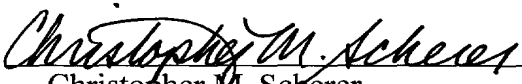
Claims 4-5, 15-16, 18-19, 33 and 38 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Dempsey in view of U.S. Patent No. 6,602,191 to Quy (hereinafter Quy). Claims 4-5, 15-16, 18-19, 33 and 38 are dependent upon the independent claims 1, 9, 29 and 37. As discussed above, the independent claims 1, 9, 29 and 37 are allowable over the teachings of Dempsey. Accordingly, claims 4-5, 15-16, 18-19, 33 and 38 are also allowable as being dependent upon an allowable base claim.

For these reasons, Applicant respectfully submits that all of the claims are now in a condition for allowance, and allowance at an early date would be appreciated. Should the

Application No. 10/750,493  
Amendment Dated May 4, 2007  
Reply to Office Action of February 15, 2007

Examiner have any questions or comments, they are encouraged to call the undersigned at 414-271-7590 to discuss the same so that any outstanding issues can be expeditiously resolved.

Respectfully submitted,  
ANDRUS, SCEALES, STARKE & SAWALL, LLP

By   
Christopher M. Scherer  
Reg. No. 50,655

Andrus, Sceales, Starke & Sawall, LLP  
100 East Wisconsin Avenue, Suite 1100  
Milwaukee, Wisconsin 53202  
Telephone: (414) 271-7590  
Facsimile: (414) 271-5770